

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-20 and 22-36 are pending in the application, with claims 1, 10 and 27 being the independent claims. Claims 1-3, 5-8, 10, 12, 13, 15-18, 22, 23, 27, 28, and 30-35 are sought to be amended. Claim 21 is sought to be cancelled without prejudice to or disclaimer of the subject matter therein. Claims 36 and 37 are sought to be added. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Claim Objections

The Examiner has indicated that should claim 15 be found allowable, claim 21 will be objected to under 37 C.F.R. § 1.75 as being a substantial duplicate thereof. In response, Applicants have cancelled claim 21. Reconsideration and withdrawal of this objection is therefore respectfully requested.

Rejections under 35 U.S.C. § 102(e)

In the Office Action, claims 1-7 and 9-35 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Publication No. 2002/0010736 to Marques *et al.*

("Marques"). As will be explained in more detail below, those portions of Marques relied upon in formulating these rejections are only entitled to an effective filing date of

March 6, 2001. Thus, Marques is not prior art against the present application, which was filed on December 8, 2000. Accordingly, Applicants respectfully traverse.

Rejections of Claims 1-7 and 9 as anticipated by Marques

In rejecting independent claim 1, the Examiner relied on the following portions of Marques:

- figures 1-3, 5;
- text at column 1, paragraphs 0012-0013;
- text at column 3, paragraphs 0038, 0042, and 0044; and
- text at column 4, paragraphs 0046, 0049-0050, 0053, 0058 and 0059.

Applicants respectfully disagree with the Examiner that Marques teaches the features of independent claim 1. However, rather than dispute the merits of Marques, Applicants note that those portions of Marques relied upon by the Examiner in rejecting independent claim 1 (listed above) find no support in U.S. Provisional Patent Application No. 60/187,288 to which Marques claims priority under 35 U.S.C. § 119(e). Applicants have submitted a copy of this provisional application in an Information Disclosure Statement, which is filed herewith.

As set forth in MPEP 706.02(1):

For reference publications and patents of patent applications filed under 35 U.S.C. 111(a), the prior art dates under 35 U.S.C. 102(e) accorded to these references are the earliest effective U.S. filing dates. Thus, a publication and patent of a 35 U.S.C. 111(a) application, which claims priority under 35 U.S.C. 119(e) to a prior U.S. provisional application or claims the benefit under 35 U.S.C. 120 of a prior non-provisional application, would be accorded the earlier filing date as its prior art date under 35 U.S.C. 102(e), ***assuming the earlier-filed application has proper support for the subject matter as required by 35 U.S.C. 119(e) or 120.***

(emphasis added). Because the subject matter relied upon by the Examiner in rejecting claim 1 is not described in provisional application 60/187,288, the appropriate prior art date for Marques under 35 U.S.C. § 102(e) is March 6, 2001, not March 6, 2000. Thus, Marques is not prior art against claim 1 of the present application, which was filed on December 8, 2000.

Accordingly, the rejection of claim 1 under 35 U.S.C. § 102(e) is traversed and Applicants respectfully request that the rejection be withdrawn. Furthermore, dependent claims 2-7 and 9 are also not anticipated by Marques for at least the same reasons as independent claim 1 from which they depend and further in view of their own respective features. Accordingly, the rejection of claims 2-7 and 9 under 35 U.S.C. § 102(e) is also traversed and Applicants respectfully request that the rejection be withdrawn.

Rejections of Claims 10-35 as anticipated by Marques

In rejecting independent claims 10 and 27, the Examiner relied on the following portions of Marques:

- figure 5;
- text at column 1, paragraphs 0012-0013; and
- text at column 4, paragraphs 0053 and 0066.

Applicants respectfully disagree with the Examiner that Marques teaches the features of independent claims 10 and 27. However, rather than dispute the merits of Marques, Applicants note that those portions of Marques relied upon by the Examiner in rejecting independent claims 10 and 27 (as reiterated above) find no support in U.S. Provisional Patent Application No. 60/187,288 to which Marques claims priority under 35 U.S.C. § 119(e). Because the subject matter relied upon by the Examiner in rejecting

claims 10 and 27 is not described in provisional application 60/187,288, the appropriate prior art date for Marques under 35 U.S.C. § 102(e) is March 6, 2001, not March 6, 2000. Thus, Marques is not prior art against claims 10 and 27 of the present application, which was filed on December 8, 2000.

Accordingly, the rejection of claims 10 and 27 under 35 U.S.C. § 102(e) is traversed and Applicants respectfully request that the rejection be withdrawn. Furthermore, dependent claims 11-26 and 28-35 are also not anticipated by Marques for at least the same reasons as independent claims 10 and 27 from which they depend and further in view of their own respective features. Accordingly, the rejection of claims 11-26 and 28-35 under 35 U.S.C. § 102(e) is also traversed and Applicants respectfully request that the rejection be withdrawn.

Rejections under 35 U.S.C. § 103

In the Office Action, claim 8 was rejected under 35 U.S.C. § 103(a) as being rendered obvious by Marques in view of U.S. Publication No. 2002/0019828 to Mortl ("Mortl"). Based on the following remarks, Applicants respectfully traverse.

Claim 8 depends from claim 1. Mortl does not overcome all of the deficiencies of Marques relative to claim 1, described above. For at least these reasons, and further in view of its own features, claim 8 is patentable over the combination of Marques and Mortl. Accordingly, the rejection of claim 8 under 35 U.S.C. § 103 is traversed and Applicants respectfully request that the rejection be withdrawn.

Amendments to the Claims

Claims 1-3, 5-8, 10, 12, 13, 15-18, 22, 23, 27, 28, and 30-35 have been amended. These amendments are not entered in response to the Examiner's rejections. Thus, no estoppel should apply.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Lori A. Gordon
Attorney for Applicants
Registration No. 50,633

Date: August 26, 2005

1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600